

Conservation Commission Meeting Minutes
June 22, 2011

Member Present: Louis A. Napoli, Chairman, John J. Mabon, Vice Chairman, Joseph W. Lynch, Jr., Deborah A. Feltovic, Douglas W. Saal.

Members Absent: Albert P. Manzi, Jr., Sean F. McDonough.

Staff Members Present: Jennifer A. Hughes, Conservation Administrator, Heidi M. Gaffney, Conservation Field Inspector, Donna M. Wedge, Conservation Secretary.

Pledge of Allegiance

Meeting came to Order at: 7:05PM Quorum Present.

General Business

Approval of Minutes 6/1/11

- A motion to accept the minutes of June 1, 2011 as written made by Ms. Feltovic, seconded by Mr. Mabon.
- Vote unanimous.

242-1447, Modification Request, 2357 Turnpike Street (Valley Realty Development, LLC) (Vorbach Architecture) (Merrimack Engineering Services, Inc.) (cont. from 6/1/11)

- The administrator summarizes what has occurred since the as-builts were requested by the commission.
- The administrator states that certification of the as-builts prepared by Merrimack Engineering has not yet been received. The commission may wish to hold off on modifications until the final certification for Phases 1 and 2 have been received.
- Mr. Mesiti states that he has been working very hard to get the engineers to move as fast as they can to complete the certification of Phase 1 and Phase 2 and that it should be completed by next week and hopefully the as-built plans would be sent GZA to do their part in the final certification by the July 13, 2011 meeting.
- Mr. Lynch states that the commission has been waiting for the as-built plans since last October and the Conservation Commission needs to make sure that Phase 1 and Phase 2 were built to original record plan.
- Mr. Napoli states that the information on the drainage/stormwater is critical to the project.
- Mr. Mesiti states that he purchased Phase 3 of the project and does not understand why he is responsible for Phases 1 and 2.
- The administrator states that the Order of Conditions specifically incorporated the order issued for all phases of the project.
- Mr. Mabon states that the Conservation Commission would have to know if the stormwater structures are working as intended and if they were installed as designed before allowing for any more modifications.
- Mr. Mesiti requests permission to continue moving forward with building #23 when the additional material is submitted.

- Mr. Napoli states that work is not to move forward until the as-built plans are submitted and reviewed by the peer reviewer. Mr. Napoli also states that the commission has allowed several modifications to the plan already.
- Mr. Mesiti requests a continuance to the July 13, 2011 meeting.
- A motion to grant the request for a continuance to July 13, 2011 meeting made by Ms. Feltovic, seconded by Mr. Lynch.
- Vote unanimous.
- *Documents:*
 - *Modification request letter dated April 26, 2011, prepared by Vorbach Architecture*
 - *Plan titled "Site plan in North Andover, Massachusetts, showing proposed changes to building #24, #25, #28, proposed chain link fence, proposed relocated drain manholes and drain pipeline, and proposed post office", and dated January 5, 2009, last revision date of June 22, 2011*

242-1428, Site Stabilization, Lot 4N-A Turnpike Street (One Hundred Fourteen Trust) (Patrick C. Garner of Garner Company, Inc.)

- The applicant Pribhu L. Hingorani of One Hundred Fourteen Trust, Timothy Barlow the builder and Patrick C. Garner of Garner Company, Inc. are present.
- The administrator states that no work has occurred on the site since April and although there is no erosion beyond the controls at this time, the site is not stabilized other than hay mulch on the construction roadway. The site is not in compliance with the construction sequence.
- Mr. Garner discusses why the site was opened up and states that the intent was for work to continue to move forward, however due to financial reasons the site has been sitting idle.
- Mr. Barlow states that the site has been seeded twice and some areas are starting to grow, but agrees that it is not growing well.
- Mr. Hingorani states that he does not have full funding for the project right now and that he is currently working with another bank and seeking the funding to move forward.
- Mr. Lynch discusses the site and the compliance issues.
- The field inspector states that the erosion controls are functioning and that no erosion has occurred behind the controls, however to achieve full stabilization if the site is to sit idle, something such as wood chip mulch or heavy straw mulching could be considered since grass just is not going to grow on this site at this time.
- Mr. Garner states that nature is moving back in and vegetation is starting to grow.
- Mr. Napoli discusses the large stockpile of materials on the site and the plans to process them.
- Mr. Saal states that no further work should occur on the site until the full funding is there to move forward and complete the project.
- The administrator states that stabilization of the site is the priority until the applicant receives financing for the project. A letter will be sent to the applicant regarding the need to stabilize the site and that no further work can occur on the site.
- The commission discusses that the applicant will need to update the commission on the status of the site in September 2011.
- *Documents:*
 - *Environmental Inspection Report #11 dated June 17, 2011, prepared by Patrick Garner*

**242-1328, COC Request, 29 Anne Road (Duffy) (Merrimack Engineering Services, Inc.)
(Request to cont. 7/13/11)**

- The administrator states the applicant is planning to file for an after-the-fact modification, and requests a continuance for the COC request.
- A motion to grant the request for a continuance to July 13, 2011 meeting is made by Mr. Mabon, seconded by Ms. Feltovic.
- Vote unanimous.
- *Documents:*
 - *WPA Form 8A – Request for Certificate of Compliance*

242-0004, PCOC Request, 31 Bannan Drive (Shaheen, Guerrero, & O' Leahy, LLC)

- The administrator states that this is a very old order of conditions and required as-builts of the septic systems prior to COC. One has not been provided and there is nothing available in health or building file. There is an isolated wetland on this lot that was not identified when subdivision was built, it most likely formed later.
- The commission discusses the history of the site.
- The administrator states that even if an as-built septic plan was submitted, there are no plans to compare it to in order to check for compliance.
- A motion to grant the PCOC for 31 Bannan Drive is made by Mr. Mabon, seconded by Ms. Feltovic.
- Vote unanimous.
- *Documents:*
 - *Letter dated June 10, 2011 from Shaheen, Guerrero, & O' Leahy, LLC*
 - *WPA Form 8A-Request for Partial Certificate of Compliance*

242-1410, COC Request, #129 Berry Street (Lot 1N-A) (One Hundred Fourteen Trust)

- The applicant Pribhu L. Hingorani of One Hundred Fourteen Trust, Patrick C. Garner of Garner Company, Inc. and Timothy Barlow the applicant's builder are present.
- The administrator states that the site is stabilized. She states that she requested several times have the decaying hay bales removed as is required by the OOC but the request went unheeded and they may be too deteriorated to be removed at this point, but it should be noted in the future that hay bales are to be removed once a site is stabilized and prior to submitting a request for a COC.
- A motion to grant the COC and bond release is made by Mr. Lynch, seconded by Mr. Mabon.
- Vote unanimous.
- *Documents:*
 - *Photos taken 6/21/11*
 - *WPA Form 8A-Request for Certificate of Compliance*
 - *Plan titled "Lot 1N Foundation As-Built, North Andover, MA"; revised date 1/7/11; prepared by Patrick C. Garner Company, Inc.*

Small Project

NACC#85, 290 Stevens Street (Lawlor)

- The administrator reviews the project with the commission. The request would be a J since actual patio construction is outside the 100' buffer zone. The only work in the buffer zone is the stockpiling of materials. The conservation department staff measured and the patio is outside the 100' buffer zone. The impacts are temporary in nature.
- A motion to accept this project as a small project 4.4.2J was made by Mr. Lynch, seconded Ms. Feltovic.
- Vote unanimous.
- A motion to grant the work as a small project with the conditions of erosion control installation and a post construction site visit is made by Mr. Lynch, seconded by Ms. Feltovic.
- Vote unanimous.
- *Documents:*
 - *Application Checklist-Small Project, Small Project Procedures*

Emergency Certification

Waverly Road Culvert (at Walgreens) (DPW)

- The administrator reviews the emergency project and states that the culvert had been damaged during gas line repair and that the culvert had disintegrated and could have collapsed at any time.
- Mr. Napoli states that he too observed the damaged culvert.
- A motion to grant the confirmation for the Emergency Certification is made by Mr. Mabon, seconded by Mr. Lynch.
- Vote unanimous.
- *Documents:*
 - *Emergency Certification Form*
 - *Marked up/ hand modified plan, (plan for culvert work has been hand written on the original plan), original plan is titled "Drainage Plan", prepared by Bohler Engineering, P.C., dated 8/4/05*

No recess

Public Hearings 8:30 PM

Request for Determination of Applicability

72 Stage Coach Road (McDonald) (Williams & Sparages Engineers)

- The applicants Jeffery & Lynne McDonald are present.
- Mr. Saal reads the legal ad.
- The legal ad incorrectly identifies the resource area as Bordering Vegetated Wetland.

- Mr. Lynch states that the legal ad is acceptable as far as the legal requirement to notify the public.
- The administrator states that the resource area is a locally jurisdictional isolated vegetated wetland. It was likely formed due to the fill on this lot and the old railroad bed behind, and is a small pocket wetland.
- Mrs. McDonald states that they carefully looked at the location of the pool and what the alternatives were.
- Mr. Lynch states that the applicant has done a thorough job in permitting their pool and the alternatives were well thought out.
- Mr. Mabon states that the pool filter and pump location needs to be identified and the fence needs to be shown encircling the pool.
- A motion to issue a Negative Determination #3 with the conditions of a pre-construction meeting and a post-construction meeting and the placement of wetland markers as well as the requirements that he cartridge style filter be located outside of the 50' No-Build Zone and the fence be located outside of the 25' No-disturb Zone is made by Mr. Mabon, seconded by Ms. Feltovic.
- Vote unanimous.
- *Documents:*
 - *Application Checklist-Request for Determination of Applicability*
 - *WPA Form 1-Request for Determination for Determination of Applicability and associated documents.*
 - *Letter dated 6/10/11 Work Description-Section C-2 (a) & (b)*
 - *Letter dated 6/10/11 Alternative Analysis*
 - *Abutters Notification Form*
 - *Plan titled "Plan to Accompany Request for Determination", prepared by Williams & Sparages, dated June 9, 2011*
 - *Wetland Delineation Report prepared by Basbanes Wetland Consulting, dated June 9, 2011*

Abbreviated Notice of Resource Area Delineation

242-1518, 143, L-5B, L-4A, L-3A Lacy Street (O'Mahony) (Norse Environmental Services, Inc.)

- The applicants Stephanie & John O'Mahony, Chris O'Mahony, Maureen Hanley of Norse Environmental Services, Inc. and abutters Stacey Birch and Wayne Birch are present.
- Ms. Hanley presents the findings of the third party wetland review by Art Allen of EcoTec, Inc.
- The administrator states that she received and reviewed the consultant report and agrees with the findings.
- Mr. Saal discusses the need to identify on the plan that there are off-site wetlands that are not shown on the plan that may affect lot 6A.
- Abutter Mrs. Stacey Birch of 95 Lacy Street asks why this area is now not a wetland when it was declared a wetland before and because of that she had to get a dumpster for the manure on the property.

- Mr. Lynch explains the wetlands delineation process to Mrs. Birch and how this wetland line was determined.
- Mrs. Birch discusses the issues she had in the past with the property.
- The administrator explained the history of the property and that Mrs. Birch was asked on many occasions to have a wetland delineation done. She explains that Mrs. Birch had ample opportunity to have a proper wetland line determined and shared with the Conservation Department.
- A motion to issue an ORAD confirming the wetland delineation as shown on the plan, but needing a note added regarding the presence off-site wetlands was made by Mr. Lynch, seconded by Ms. Feltovic.
- Vote unanimous.
- *Documents:*
 - *Report form from EcoTec, Inc. of 102 Grove Street, Worcester, MA 01605-2629, dated June 9, 2011,*
 - *Record Plan titled "Plan of Land", prepared by Merrimack Engineering Services, Inc., dated 6/15/11.*

Notice of Intent (NOI)

242-1521, 12 Massachusetts Avenue (Global Companies, LLC) (Hancock Environmental Consultants) (cont. from 6/1/11)

- The applicant Steve D. Charron of Global Companies, LLC, and Dan Bremser of Hancock Environmental Consultants were present.
- The administrator states that the applicant has submitted a detail of the infiltration trench and drywell as DEP comments required. The applicant provided additional documentation concerning the stockpiling of contaminated soils excavated below 8'.
- The commission discussed the excavation and stockpiling.
- A motion to close the public hearing and issue a decision within 21 days is made by Ms. Feltovic, seconded by Mr. Lynch.
- Vote unanimous.
- *Documents:*
 - *Long Term Stormwater O&M Plan dated 5/31/11*
 - *Dry well plan dated 6/8/11*
 - *Permit Site Plan for Notice of Intent dated 5/31/11.*
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242-1520, 50 Tiffany Lane (Seville) (Pennoni Associates, Inc.) (cont. from 6/1/11)

- The applicants Robert & Maria Seville of 50 Tiffany Lane are present.
- The field inspector states that a revised plan has been received and the stone wall has been moved by hand to the original location on the property boundary which is approximately 45' from the wetland line.
- Mr. Mabon discusses the filter with the Seville's. The filter will be a diatomaceous earth filter.
- A motion to close the public hearing and issue a decision within 21 days made by Ms. Feltovic, seconded by Mr. Mabon.

- Vote unanimous.
- *Documents:*
 - *Mr. Seville submitted pictures dated 6/22/11 to the Conservation Commission showing the hand moved wall*
 - *Letter from Pennoni Associates, Inc. dated 6/9/11 stating the wall was moved and a showing the planting plan*
 - *Revised plan dated 6/7/11 from Pennoni Associates, Inc.*

242-1504, 140 Academy Road (Patenaude) (Andover Consultants, Inc.) (cont. from 5/18/11) (Request to cont. to 7/13/11)

- The administrator states that the project is being reviewed by the Planning Board first for a land Disturbance Permit and that Eggleston Environmental is also reviewing the project. The applicant is requesting a continuance to the July 13, 2011 meeting.
- A motion to grant the request for a continuance to the July 13, 2011 meeting is made by Ms. Feltovic, seconded by Mr. Lynch.
- Vote unanimous.

242-1492, 1679 Osgood Street (Amended Notice of Intent) (GMZ Realty Trust) (Jones and Beach Engineers, Inc.) (cont. from 4/27/11)

- Mark C. West of West Environmental, Inc. and abutter Douglas J. Swatski of 45 White Birch Lane are present.
- Mr. Saal reads the legal notice.
- The administrator states that an additional lot has been added to the development and that Eggleston Environmental is reviewing the changes however she is waiting for more information from the engineer to complete the review. The administrator states that she has walked the Isolated Vegetated Wetland with Mark West and during the site walk one new flag was added and one flag was moved.
- Mr. West states there has been additional house added. There will be a new drainage review because of the addition of the new lot.
- Mr. Lynch states that everything hinges on the drainage review.
- A discussion ensues regarding the possibility of a deed restriction and/or protective covenant to allow for the retention of more canopy trees and a larger buffer zone as mitigation for the wetland crossing.
- The applicant requests a continuance to the July 13, 2011 meeting.
- A motion to grant the request for a continuance to July 13, 2011 meeting made by Mr. Lynch, seconded by Ms. Feltovic.
- Vote unanimous.
- *Documents:*
 - *NOI Wetland Fee Transmittal Form*
 - *Town of North Andover Abutters Listing, Letter addressed to Jennifer Hughes, Conservation Administrator dated June 10, 2011*
 - *Letter from 1591 Osgood Street, North Andover, Christopher V. Adams, Trustee, dated June 9, 2011.*

242-1522, 20 Rosemont Drive (Gyorda) (Sullivan Engineering Group, LLC)

- The applicant Peter J. Gyorda of 20 Rosemont Drive is present.
- Mr. Saal reads the legal notice.
- The administrator states that the proposed work is to clear a portion of the lot, fill, grade and seed to establish a larger backyard. The work is outside the subzones and the first 100' of Riverfront will remain vegetated. The delineation was confirmed in the field. There is some yard waste dumping and the applicant should be required to clean this up. The applicant also proposes a chain link fence and markers which will help to prevent future dumping.
- The commission discusses the project with the applicant and asks if the applicant wishes to make any changes to the proposal such as a retaining wall or to completely remove the stumps of the trees. The commission states to the applicant the proposal as it is shown will still result in a steep slope at the rear of the yard.
- The applicant requests a continuance to the July 13, 2011 meeting.
- A motion to grant the request for a continuance to July 13, 2011 meeting made by Ms. Feltovic, seconded by Mr. Lynch.
- Vote unanimous.
- *Documents:*
 - *Completed WPA Form 3-Notice of Intent and complete NOI application*
 - *Wetland Fee Transmittal Form*
 - *The completed Town of North Andover Application checklist for NOI's*
 - *A copy of the Notification to Abutter's form*
 - *A copy of the State and Town Checks*
 - *A written alternative analysis for Riverfront Area,*
 - *Plan titled "Plot Plan of Land-20 Rosemont Drive" prepared by Sullivan Engineering, dated 6/7/11*
 - *Staff Photos taken 6/15/11 and 6/16/11.*

Election of Officers

A motion to elect Mr. Napoli as Chairman of The Town of North Andover Conservation Commission is made by Mr. Lynch, seconded by Mr. Mabon. Vote unanimous.

A motion to elect Mr. Mabon as Vice Chairman of the Town of North Conservation Commission is made by Mr. Napoli, seconded by Mr. Lynch. Vote unanimous.

Decisions

242-1521, 12 Massachusetts Avenue

- The administrator reviews the drafted Order of Conditions.
- A motion to issue the Order of Condition as-drafted is made by Mr. Mabon, seconded by Ms. Feltovic.

- Vote unanimous.

242-1520, 50 Tiffany Lane

- The field inspector reviews the drafted Order of Conditions.
- The header for the Order of Conditions needs to be amended to reflect the correct MA DEP File number.
- A motion to issue the Order of Conditions as-amended made by Mr. Mabon, seconded by Ms. Feltovic.
- Vote unanimous.

Discussion

East Side Sewer Roadway-request to leave the access Roadway in place.

- The administrator states discussion is to give the contractor direction regarding keeping the access roadway in place for access for cleaning and maintaining the sewage manholes as needed in the future.
- Mr. Lynch states that he feels that leaving the access road in place is advisable and may actually help with the stormwater coming off of the highway. He states that now that the initial disturbance has been done taking out the roadway will only create more disturbance and that the town will need access to do annual maintenance.
- *Documents:*
 - *Woodard and Curran plan and photos*

1503 Osgood Street

- The administrator states that the applicant has not been in compliance with the Order of Conditions and has not been adequately responding to the commissions requests.
- Mr. Lynch states that it is time to issue an Enforcement Order and fines of \$300 per day if the site is not brought into compliance in a timely fashion.

A motion to grant to adjourn the meeting at: 10:00 PM made by Ms. Feltovic, seconded by Mr. Lynch.

Vote unanimous.